

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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Scott Phillip Lewis

vs.

CASE NUMBER: 1:24-cv-1198 (GTS/CFH)

Stavisky, et al.

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**ORDER DIRECTING ADMINISTRATIVE CLOSURE  
WITH OPPORTUNITY TO COMPLY WITH FILING FEE REQUIREMENTS**

Plaintiff's complaint was filed in the Northern District of New York on September 27, 2024. Plaintiff has not paid the filing fee for this action, nor has the plaintiff filed an In Forma Pauperis Application Form ("IFP Application").<sup>1</sup>

A civil action is commenced in federal district court by filing a complaint. Fed. R. Civ. P. 3. The statutory filing fee must also be paid at the time an action is commenced, unless the plaintiff seeks in forma pauperis status. *See* 28 U.S.C. §§ 1914(a), 1915(a). **The need to pay a filing fee or file an IFP Application is not suspended because the plaintiff has also filed a motion for a temporary restraining order and/or preliminary injunction.** *See, e.g.,* Matthews v. BARQ, 18-CV-0855, 2019 WL 367303 (N.D.N.Y. Jan. 30, 2019) (McAvoy, J.); Chamberlain v. Bennett, 95-CV-1687, 1996 WL 596640 (N.D.N.Y. Oct. 15, 1996) (Pooler, J.).

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<sup>1</sup> The total cost for filing a civil action in this court is \$405.00 (consisting of the civil filing fee of \$350.00, *see* 28 U.S.C. § 1914(a), and an administrative fee of \$55.00).

**WHEREFORE**, it is hereby

**ORDERED** that because this action was not properly commenced, the Clerk is directed to administratively close this action;<sup>2</sup> and it is further

**ORDERED** that if plaintiff desires to pursue this action, plaintiff must **WITHIN THIRTY (30) DAYS** of the filing date of this Order **either** (1) pay the full \$405.00 filing fee for civil actions **or** (2) submit a completed and signed IFP Application; and it is further

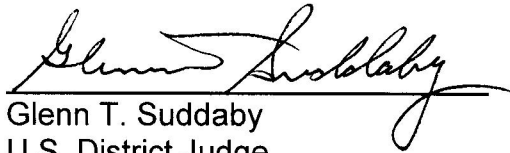
**ORDERED** that upon plaintiff's compliance herewith, the Clerk shall reopen this action and forward it to the Court for review; and it is further

**ORDERED** that, in accordance with the Rule 10.1(c)(2) of the Court's Local Rules, plaintiff shall promptly notify the Clerk's Office and all parties or their counsel, in writing, of any change in Plaintiff's address. Plaintiff's failure to do so may result in the dismissal of this action; and it is further

**ORDERED** that the Clerk serve a copy of this Order on plaintiff, along with a blank IFP Application.

**IT IS SO ORDERED.**

DATE: September 30, 2024

  
Glenn T. Suddaby  
U.S. District Judge

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<sup>2</sup> "[I]f the case is re-opened pursuant to the terms of this order, it is not subject to the statute of limitations time bar as long as it originally was timely filed." *Vangundy v. Haque*, No. 17-cv-0024, 2017 WL 1274318, at \*2, n.5 (citing *McDowell v. Del. State Police*, 88 F.3d 188, 191 (3d Cir. 1996)).

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

\_\_\_\_\_  
Plaintiff(s)

v.

**APPLICATION TO PROCEED  
WITHOUT FULL PREPAYMENT  
OF FEES IN ACTIONS COMMENCED  
PURSUANT TO 42 U.S.C. § 1983**

\_\_\_\_\_  
Defendant(s)

CASE NUMBER: \_\_\_\_\_

I, \_\_\_\_\_, declare that I am (check appropriate box)

☐ plaintiff/movant

☐ other

in the above-entitled proceeding and that, in support of my request to proceed without prepayment of fees or costs under 28 U.S.C. § 1915, I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? ☐ Yes ☐ No (if “no,” go to Question No. 2)

If “yes,” state the place of your incarceration: \_\_\_\_\_

Are you employed at the institution? ☐ Yes ☐ No

Do you receive any payment from same? ☐ Yes ☐ No

**Notice to Inmates: The Certificate Portion Of This Affidavit Must Be Completed In Accordance With Rule 5.4(b)(1)(A) Of The Local Rules Of Practice For This Court OR You Must Include, Along With This Affidavit, Certified Copies Of Your Inmate Account Statement For The Last Six Months In Accordance With 28 U.S.C. § 1915(a)(2)**

2. Are you currently employed? ☐ Yes ☐ No

a. If the answer is “yes,” state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is “no,” state the date of your last employment, the amount of your take-home salary or wages, and the name and address of your last employer.

3. In the past twelve months have you received any money from any of the following sources?

- |    |   |                              |                             |
|----|---|------------------------------|-----------------------------|
| a. | Business, profession, or other self-employment  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. | Rent payments, interest, or dividends           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. | Pensions, annuities, or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. | Disability or workers compensation payments     | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| e. | Gifts or inheritances                           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. | Any other sources                               | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is "yes," describe each source of money and state the amount received and what you expect you will continue to receive. (Attach additional pages if necessary.)

4. Do you have any cash, checking, or savings accounts? ☐ Yes ☐ No  
If "yes," state the total amount: \_\_\_\_\_

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or any other assets? ☐ Yes ☐ No  
If "yes," describe the property and state its value. (Attach additional pages if necessary.)

6. List the person(s) who are dependent on you for support, state your relationship to each person, and indicate how much you contribute to their support. (Attach additional pages if necessary.)

I declare under penalty of perjury that the above information is true and correct.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF APPLICANT

**CERTIFICATE**

(To be completed by appropriate official at institution of incarceration)

I certify that the applicant named herein has the sum of \$ \_\_\_\_\_ on account to his/her credit at (name of institution) \_\_\_\_\_.

I further certify that the applicant has the following securities to his/her credit: \_\_\_\_\_.

I further certify that during the past six months the applicant's average balance was \$ \_\_\_\_\_.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED OFFICER